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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,941

08/13/2004

James A. Ruse

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7590

07/27/2007

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EXAMINER

SHAHER, RICKY D

ART UNIT

PAPER NUMBER

2872

MAIL DATE

DELIVERY MODE

07/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/710,941

Applicant(s)

RUSE ET AL.

Examiner

Ricky D. Shafer

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,8-19 and 23-54 is/are pending in the application.
- 4a) Of the above claim(s) 23-48 and 50-54 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,4,8-17 and 49 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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1. This application is in condition for allowance except for the following formal matters:

A). Newly submitted claims 50-54 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Newly submitted claims 50-54 are not readable on the elected invention because the newly submitted claim 50 fails to include the details of a reflective element assembly for providing an operator of a vehicle with a rearward view nor a reinforcing element aligned with the connection to distribute at least one of stresses and forces to the base to enhance the strength of the connection. In addition, newly submitted claim 50, adds various other aspects of an exterior vehicle mirror system, (i.e., the base having a mounting post, the exterior vehicle system having a frame to support a reflective element, the connection pivotally mounting the frame to the base through the coupling of the post and at least one reinforcing element for bridging the connection and distributing stresses imposed on the frame through the connection to the base along a stress path coextensive with the at least one reinforcing element) which would require a new and completely different search.

The newly submitted and elected inventions are related as combination and subcombination, respectively. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because of the omission of the details of the reflective element assembly providing an operator of a vehicle with a rearward view and a reinforcing element aligned with the connection to distribute at least one of stresses and forces to

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the base to enhance the strength of the connection, as clearly evidenced by original (claim 1).

The subcombination has separate utility such as an exterior vehicle mirror system without a base having a mounting post; an exterior vehicle system having a frame to support a reflective element; a connection pivotally mounting the frame to the base through an coupling of the post; or at least one reinforcing element for bridging the connection and distributing stresses imposed on the frame through the connection to the base along a stress path coextensive with the at least one reinforcing element, as presented in newly submitted claim 50.

Applicant should be advised, inventions in the same statutory class are considered mutually exclusive, or not overlapping in scope, if a first (originally claimed) invention would not infringe a second (newly submitted) invention, and the second (newly submitted) invention would not infringe the first (originally claimed) invention, which is clearly the case in the present application.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 50-54 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

This application is in condition for allowance except for the presence of claims 23-48 and 50-54 directed to a non-elected invention. In order to be fully responsive to this communication, applicant is required to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue.

B). Claims 18 and 19 are objected to because of the following informalities:

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In claim 18, line 3, the language "at least one of forces and stresses" should be changed to read --said at least one of stresses and forces--. Appropriate correction is required.

3. Claims 18 and 19 would be allowable, if amended, to overcome the above mentioned objection.
4. Claims 3, 4, 8-17 and 49 are allowed.
5. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.K. 213.

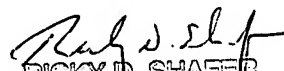
A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

July 22, 2007


RICKY D. SHAFER
PATENT EXAMINER
ART UNIT 2872